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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,414	07/20/2001	Eric P Berg	NIGA,003	9647

7590 09/26/2005
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EXAMINER

BANGACHON, WILLIAM L

ART UNIT	PAPER NUMBER
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2635

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/910,414	Applicant(s) BERG, ERIC P	
	Examiner William Bangachon	Art Unit 2635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/20/01</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Examiner's Response

1. In response to the application filed 7/20/2001, the application has been examined. The Examiner has considered the presentation of claims in view of the disclosure and the present state of the prior art. It is the Examiner's position that **claims 1-5** are unpatentable for the reasons set forth in this Office action:

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **"paging transmitter and receiver"** recited in claims 2 and 3, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining

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figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the Examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-5 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of copending Application No. 10/709,442.

With regards to claims 1-4, although application '442' do not disclose a remote disconnection and connection of **"electrical power meters"**, these claim limitations would have been obvious in '442' because it is directed to remote

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disconnection and connection of electrical power, to one of ordinary skill in the art.

Claim 5 recites a method for practicing the system of claims 1-3 in application '442'.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,668,538 {Warwick}.

In claim 1, Warwick teach of a system for remote disconnection and connection for electrical power meters shown in figures 1a-n to 5a-n, having an input electrical supply source (22, 23) and an output electrical outlet (24, 25) {paragraph bridging cols. 1 and 2; col. 4, lines 15-19}, said system comprising;

a switching circuit (26) connected between said input electrical supply source and said output electrical outlet {col. 4, lines 15-19};

a receiver (Figures 2h and 5g; 62, 82) for receiving control signals from a remote source {col. 1, lines 20-25; col. 5, lines 36+; col. 6, lines 26+}. The remote source can be any source, such as providers of electricity; and

a processor (63, 83) for processing said control signals from said receiver (62, 82) to open said switching circuit (26) to interrupt electrical power transmission between said input electrical supply source and said output electrical outlet {col. 5, lines 49-55; col. 6, lines 40-43}.

9. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,668,538 {Warwick} in view of USP 5,608,655 {Moughanni et al}.

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In claim 2, Warwick does not disclose expressly a paging receiver for receiving control signals. As evidenced by Moughanni, in the same field of endeavor (remote control systems), remote control using a paging system provides a person at a distance away from his home, an immediate link to his home or appliances, such as turning the air-conditioner or heater to ON/OFF {Moughanni, col. 1, lines 63+; col. 2, lines 49-63}. Obviously, these features are beneficial in the system of Warwick since Warwick is concerned with controlling electricity meters remotely. Therefore, it would have been obvious to one of ordinary skill in the art to have a pager device in the radio link of Warwick, because it allows the pager transmitter to control the electricity meters of Warwick at a distance, as taught by Moughanni,.

In claim 3, said system further includes a decoder processor (83) to decode the signal received from said radio frequency receiver from said paging transmitter into a control signal for said processor {col. 6, lines 26+}.

In claim 4, said switching circuit, said processor and said receiver are integrally mounted within the electrical power meter as shown in the figures.

Claim 5 recites a method for practicing the system of claims 1-3 and therefore rejected for the same reasons.

Office Contact Information

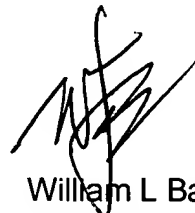
10. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to William Bangachon whose telephone number is **(571)-272-3065**. The Examiner can normally be reached on 4/4/10.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Michael Horabik can be reached on **(571)-272-3068**. The fax phone numbers for the organization where this application or proceeding is assigned is **571-273-8300** for regular and After Final formal communications. The Examiner's fax number is **(571)-273-3065** for informal communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.



William L. Bangachon
Examiner
Art Unit 2635

September 20, 2005

MICHAEL HORABIK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

